



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 13 2005

CERTIFIED MAIL 7004 2510 0006 0102 7568  
RETURN RECEIPT REQUESTED

REF: 4WM-WPEB

Mr. James Mowatt  
Criminal Investigation Division  
Environmental Protection Agency  
701 San Marco Boulevard, Suite 7W  
Jacksonville, FL 32207

SUBJ: Delegation of the NPDES Program to the State of Florida

Dear Mr. Mowatt:

Pursuant to your request, enclosed are copies of the documents regarding authorization for the Florida Department of Environmental Protection to implement the National Pollutant Discharge Elimination System Program. Also enclosed are certification statements regarding the authenticity of the enclosed documents.

Should you require any additional information, please contact Ms. Susan Pope, of my staff, at (404) 562-9770.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas F. Mundrick".

Douglas F. Mundrick, P.E., Chief  
Water Programs Enforcement Branch  
Water Management Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

AUTHENTICATION

I, Douglas Haire (for Air, Water, OPM, SEDS Divisions) attest that I am employed by the Environmental Protection Agency (EPA) as the Regional Records Manager; and that I am responsible for maintaining the records of the Water Management Division of EPA, Region 4 and that the attached documents are true, correct and compared copies of official documents in my legal custody, consisting of:

Letters concerning the assumption of the National Pollutant Discharge Elimination System Permitting Program by the Florida Department of Environmental Protection as defined in Sections 402 and 304(i) of the Clean Water Act and 40 Code of Federal Regulations Part 123.

Subscribed under penalty of perjury on 10/4/05.

A handwritten signature in dark ink, appearing to read "Douglas Haire", is written over a horizontal line.

Douglas Haire  
Regional Records Manager  
Environmental Protection Agency, Region 4

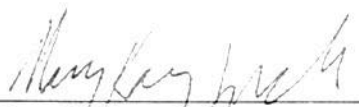


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

CERTIFICATION

I, Mary Kay Lynch, certify that I am the Regional Counsel for the Environmental Protection Agency, Region 4 in Atlanta, Georgia, and that the official whose signature appears on the authentication has legal custody pursuant to 40 C. F. R. 2.406, of the original documents, of which copies are attached, as witnessed by my signature and the official seal of the Environmental Protection Agency, which appears below.

I further certify that the attached records were prepared at or near the time of occurrence by a person with knowledge of the matters contained therein, or from information transmitted by a person with knowledge of the matters contained herein, that the records were kept in the courtesy of regularly conducted activities of the Environmental Protection Agency, and that records of this type are made as a regular practice of the regularly conducted business activities of the Agency.

  
\_\_\_\_\_  
Mary Kay Lynch  
Regional Counsel

Date: October 4, 2005





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

CERTIFICATION

I, James D. Giattina, certify that I am the Director of the Water Management Division for the Environmental Protection Agency, Region 4 in Atlanta, Georgia, and that the official whose signature appears on the authentication has legal custody pursuant to 40 C. F. R. 2.406, of the original documents, of which copies are attached, as witnessed by my signature and the official seal of the Environmental Protection Agency, which appears below.

I further certify that the attached records were prepared at or near the time of occurrence by a person with knowledge of the matters contained therein, or from information transmitted by a person with knowledge of the matters contained herein, that the records were kept in the courtesy of regularly conducted activities of the Environmental Protection Agency, and that records of this type are made as a regular practice of the regularly conducted business activities of the Agency.

James D. Giattina, Director  
Water Management Division

Date: 10/4/05







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

MAY 01 1995

REF: 4WM-WPEB

Honorable Lawton Chiles  
Governor of Florida  
Tallahassee, Florida 32399-0001

Dear Governor Chiles:

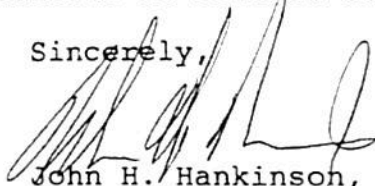
This letter is in response to your formal application for National Pollutant Discharge Elimination System (NPDES) permit program authority dated November 23, 1994. EPA has completed its review of this application and has concluded that the State of Florida has demonstrated that it adequately meets the requirements for NPDES program authorization as defined in Sections 402 and 304(i) of the Clean Water Act and 40 C.F.R. Part 123. The State of Florida is approved to administer the NPDES program for regulating point source discharges of pollutants into surface waters of the State from this date forward unless otherwise notified by EPA pursuant to 40 C.F.R. Part 123.

This authorization represents a phased NPDES program authorization encompassing permitting for: (1) domestic discharges; (2) industrial discharges, including those which also have storm water discharges; and (3) pretreatment. Storm water discharges from municipal separate storm sewer systems (MS4's), individual storm water-only discharges, storm water general permits, and federal facility discharges are to be phased in by the year 2000 for administration by the State. The State is required to submit a program modification for authorization of jurisdiction of these types of NPDES permits to EPA for approval in accordance with the schedule set forth in the Memorandum of Agreement between the State and EPA. This authorization does not include the sludge management program.

At this time, EPA has full jurisdiction of NPDES program authority for Indian Lands. All permit applications and related issues concerning discharges on federal Indian Reservations or Indian Tribal Lands will be directed to EPA Region IV.

EPA Region IV has enjoyed working with the staff of the Florida Department of Environmental Protection on this endeavor. EPA Region IV wishes the State much success in the implementation of the NPDES program. If EPA Region IV can assist you or your staff in any way, please do not hesitate to contact us.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John H. Hankinson, Jr.', written over the typed name.

John H. Hankinson, Jr.  
Regional Administrator

cc: Virginia B. Wetherell  
Robert Perciasepe  
James F. Pendergast  
Brian Maas  
Richard Harvey



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUN 02 2000

Ms. Mimi Drew, Director  
Division of Water Facilities  
Florida Department of Environmental Management  
Twin Towers Office Tower  
2600 Blair Stone Building  
Tallahassee, FL 32399-2400

RECEIVED  
JUN - 7 2000  
DIRECTOR - WATER  
RESOURCE MANAGEMENT

RECEIVED

SUBJ: Final Phase of Florida NPDES Program Implementation

JUN 14 2000

Dear Ms. Drew:

Bureau of Submerged  
Lands & Env. Resources

As we have discussed on several occasions, pursuant to Section III of the Florida/EPA Memorandum of Agreement (MOA), as of May 1, 2000, the Florida Department of Environmental Protection (FDEP) assumed responsibility to implement the remaining storm water element of the National Pollutant Discharge Elimination System (NPDES) permitting program (storm water-only dischargers and storm water general permits). Enclosed is a draft revision of the MOA that reflects this transfer of responsibility.

In recognition of this completion of the "phase-in" of the State program implementation authority, our staffs have been and continue to work cooperatively on a modification to the MOA which has governed the relationship between EPA and the State on NPDES matters during the past five years. This modification is intended to remove the expired phase-in schedule, address several editorial concerns, and reflect the changes in our respective roles that occurred as of May 1<sup>st</sup>. Federal facilities will be addressed under separate cover.

Enclosed you will find the draft revised MOA which represents the efforts of our staffs to modify the existing MOA (see enclosure 1). Although it was my hope that we could finalize this MOA prior to May 1<sup>st</sup>, it is my understanding that your staff identified a few issues, related to implementation of storm water permitting and enforcement activities, on which they would like further clarification before the MOA is actually finalized. As discussed by our staffs, those issues and the proposed approaches to resolving them are as follows:

- 1) Your staff expressed concern relative to the remaining backlog of NPDES permits for federal facilities and storm water applications. EPA has already resolved the backlog for the federal facility permits by having reissued all of those expired permits. Also, the NPDES General Permit for Storm Water Discharges from Construction Activities modification was federally noticed on April 28, 2000. The Multi-Sector General Permit for industrial activities will become a State NPDES permit on its reissuance by the State. EPA will continue to accept notices of intent (NOIs) and provide coverage under these two permits until the State reissues them or until they expire, whichever occurs first. EPA

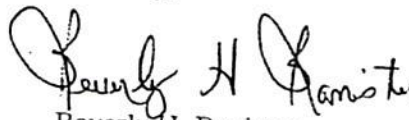


also has discussed with your staff that EPA would provide certain technical and resource assistance during this period.

- 2) Your staff asked for clarification relative to existing and anticipated NPDES enforcement activities by Region 4. As our staffs have discussed, EPA will complete its activities on current enforcement actions prior to final file transfer (see enclosure 2: "ACTIVE Enforcement Actions FY- 00, BEFORE MAY 1, 2000"). The State also may request EPA to proceed with enforcement when the State has been unable to achieve compliance through state remedies. The State should make such requests in writing to the Chief of the Water Programs Enforcement Branch, U.S. EPA Region 4 for a proposed list of such actions as previously discussed (see enclosure 3: "PROPOSED Enforcement Actions FY- 00, AFTER MAY 1, 2000").
- 3) Your staff also asked for clarification regarding the State program modification process. Following promulgation of the proposed State storm water permit application regulations, in accordance with 40 C.F.R § 122.26, EPA would need Florida to submit the revised rules and other documents necessary to complete the proposed modification of its program, pursuant to 40 C.F.R § 123.62.

It is our understanding that the above proposals address the concerns of your staff; we look forward to your response. If you have any questions, please do not hesitate to contact me, or to have a member of your staff contact Mr. Roosevelt Childress, Chief, NPDES and Biosolids Permits Section, at 404/562-9279.

Sincerely,



Beverly H. Banister  
Acting Director  
Water Management Division

Enclosures





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 17 2012

Mr. Herschel T. Vinyard, Jr.  
Secretary  
Florida Department of  
Environmental Protection  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Dear Secretary Vinyard:

As we approach the beginning of a new fiscal year, I want to take this opportunity to thank you and your staff for the work that we have done collaboratively over this year to ensure compliance with environmental laws and regulations to protect human health and the environment throughout the Southeast. While the past year has presented some challenges, I am proud of what we have been able to accomplish and look forward to working with you in the months ahead to focus attention on priority compliance and enforcement activities.

As we have in the past, Region 4 will focus its federal enforcement resources this coming year on our national and regional priority areas. We will continue our work from previous years in the six National Enforcement Initiative (NEI) areas. To complement the NEIs, Region 4 has developed regional priorities for FY 2013 intended to address environmental issues in the Southeast. A list of the NEIs and regional priorities is enclosed.

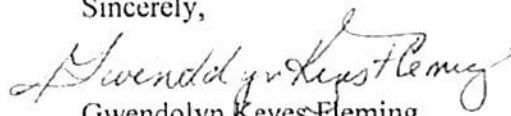
For each national and regional priority area, we expect to conduct inspections and utilize statutory investigation tools to better understand the compliance status of the facilities and sources. Because these are national and regional priorities, the EPA expects to take the lead in any enforcement action resulting from these federal inspections and investigations. This approach has proved successful in the past in creating a heightened awareness of environmental regulatory requirements in these areas and has resulted in substantial pollution reduction in our air, water, and land resources. Communication and coordination of activities and information between EPA and our state partners will remain critically important in the implementation of our work in FY 2013. Coordination by the EPA will include prior notification of any inspections and the sharing of critical information, including the basis for enforcement actions, before initiation of the action. Furthermore, where the EPA determines that a primary federal enforcement role is not warranted in a particular case, our staff will continue to assist your agency and support state enforcement efforts, where appropriate.

The EPA and states share responsibility for assuring compliance with environmental laws and regulations. As we work together in the coming year, there may be new situations involving state resource reductions that call for strategic planning to address the most pressing environmental problems. I am committed to exploring work-sharing and other creative approaches to ensure we are providing equal protection to all citizens and a level playing field for businesses that comply with the law. Over the coming weeks, representatives from Region 4's Office of Environmental Accountability (OEA) will

be meeting with your enforcement and compliance assurance staff to discuss in greater detail these national and regional priorities.

I appreciate your cooperation in implementing these national and regional priorities and look forward to our continuing collaboration to improve the environmental and quality of life for all of our citizens. If you have any questions regarding these priorities and initiatives, please contact me or have a member of your staff contact Mary Wilkes, Regional Counsel and Director of OEA, at (404) 562-9556, or Scott Gordon, Associate Director of OEA, at (404) 562-9741.

Sincerely,



Gwendolyn Keyes Fleming  
Regional Administrator

Enclosure

cc: Jeff Littlejohn, Deputy Secretary for Regulatory Programs

RECEIVED

SEP 26 2012

DEP SECRETARY



## EPA National Enforcement Initiatives

### **Keeping Raw Sewage and Contaminated Storm Water Out of our Nation's Waters**

EPA will continue its enforcement focus on reducing discharges of raw sewage and contaminated storm water into our nation's rivers, streams and lakes. Older urban areas in particular have aging sewer systems that are not designed to handle heavy rainfall and snowfall, in addition to growing urban populations and industrial discharges. As a result, untreated sewage too frequently overflows from sewers into waterways, or backs up into city streets or basements of homes. Raw sewage contains pathogens that threaten public health, leading to beach closures and public advisories against fishing and swimming. This problem particularly affects older urban areas, where minority and low income communities are often concentrated. In addition, storm water runoff from urban streets and construction sites carries sediment, metal, oil and grease, acid, chemicals, toxic materials and industrial waste into surface waters. Many cities use rivers as the source of their drinking water, and contaminants in the water increase the difficulty and expense of treating the water for drinking water use. The Clean Water Act (CWA) requires municipalities to treat sewage before it is discharged and to control contaminated storm water discharges, but many municipalities are not complying with these requirements. EPA's enforcement efforts in recent years have resulted in agreements by many cities to remedy these problems, but the problem remains in many other cities. This National Enforcement Initiative focuses on reducing discharges from combined sewer overflows ("CSOs"), sanitary sewer overflows ("SSOs") and municipal separate storm sewer systems ("MS4s") in FY 2011-13, by obtaining cities' commitments to implement timely, affordable solutions to these problems, including increased use of green infrastructure and other innovative approaches. In Region 4, the universe of CSO/SSO systems greater than 10 million gallons per day (including 9 that are greater than 100 million gallons per day) is 155 systems. To date, 105 of these systems have been addressed. The universe of MS4s in Region 4 is estimated to be 114. To date approximately 76 of these MS4 permits have been addressed.

### **Preventing Animal Waste from Contaminating Surface and Ground Waters**

Concentrated Animal Feeding Operations (CAFOs) are agricultural operations where animals live in a confined environment. CAFOs can contain large numbers of animals, feed, manure, dead animals and production operations on a small land area. The animals generate a large amount of manure, which typically is held in lagoons or spread on nearby fields. If not properly controlled, manure can overflow from lagoons or run off from the fields into nearby surface waters or seep into ground water, carrying disease-causing pathogens, nutrients, or other contaminants into the water. This contaminates both surface waters and ground waters that may be used as drinking water sources and harms fish and other aquatic species in surface waters. Several studies have found high concentrations of CAFOs in areas with low income and non-white populations. This is typical in many rural areas of the country where livestock facilities are located. Children in these populations may be particularly susceptible to potential adverse health effects through exposure to contaminated surface waters or drinking water from contaminated ground water sources. The CWA and EPA's regulations require CAFOs which discharge to have permits, which impose control requirements on the waste produced by animals on the farm discharging into surface waters. EPA will continue and strengthen its enforcement focus on these facilities. For FY 2011-13, OECA is focusing primarily on existing large and medium CAFOs identified as discharging without a permit. Region 4's universe of CAFOs is close to 1,000. Region 4 has identified three Priority Areas (the Saluda Watershed in South Carolina, the Obion/Southfork Watershed in Tennessee and the Maple Branch Watershed in North Carolina) to focus our efforts in FY 2011 – 2013. To date, over sixty percent of the large CAFOs in the SC and TN Priority Areas have been addressed, and at least 50% of the important CAFOs in the Maple Branch Watershed will be addressed by the end of FY 2013. Additionally, Region 4 will continue to conduct CAFO program reviews with the Georgia Environmental Protection Division during FY 2013.



### **Cutting Toxic Air Pollution that Affects Communities' Health**

In 1990 Congress identified 187 hazardous air pollutants that present significant threats to human health. These pollutants are known or suspected to cause cancer and other serious health effects, such as reproductive or birth defects. This threat may be particularly important for communities with disproportionate exposure to environmental risks and those with greater concentrations of sensitive populations, including urban minority and low-income communities. The Clean Air Act (CAA) and EPA's regulations impose strict emission control requirements (known as "Maximum Available Control Technology" or "MACT") for these pollutants, which are emitted by a wide range of industrial and commercial facilities. For FY 2011-13, EPA is using a National Enforcement Initiative approach to focus on excess emissions caused by facilities' failure to comply with EPA's leak detection and repair requirements and restrictions on flaring, and to address excess emissions. OECA is partnering with EPA's Office of Air and Office of Research and Development on this effort and is giving particular emphasis to problems affecting local communities that are disproportionately impacted by pollution from multiple sources.

### **Reducing Widespread Air Pollution from the Largest Sources, especially the Acid, Cement, Utility and Glass Sectors**

The New Source Review and Prevention of Significant Deterioration requirements of the CAA require certain large industrial facilities to install state-of-the-art air pollution controls when they build new facilities or make "significant modifications" to existing facilities. However, many industries have not complied with these requirements, leading to excessive emissions of air pollutants such as sulfur dioxide, nitrogen oxides and particulate matter. These pollutants can be carried long distances and can have significant adverse effects on human health, including asthma, respiratory diseases and premature death. These effects may be particularly significant for communities with disproportionate exposure to environmental risks and vulnerable populations, including children. In recent years EPA has made considerable progress in reducing this excessive pollution by bringing enforcement actions against large refineries, power plants, cement manufacturing facilities, sulfuric and nitric acid manufacturing facilities and glass manufacturing facilities. In Region 4, we have initiated investigations at 100% of the universe of facilities (66 cement, glass, and acid plants, and 284 utility combustion units) covered by the initiative. More work remains to be done to complete these investigations and take appropriate action to bring these sectors into compliance with the CAA and protect communities burdened with harmful air pollution.

### **Reducing Pollution from Mining and Mineral Processing Operations**

Mining and mineral processing facilities generate more toxic and hazardous waste than any other industrial sector, based on EPA's Toxic Release Inventory. Many of these facilities have impacted surrounding communities and continue to pose high risk to human health and the environment. For example, 95 mining and mineral processing sites are on the Superfund National Priorities List and more sites are being added every year, including operating facilities. Contamination of ground water and potable water has occurred, sometimes requiring alternative drinking water supplies or removal of lead-contaminated soil from residential yards. In other cases, toxic spills into waterways from mining and mineral processing caused massive fish kills and impacted the livelihood of low income communities. Some workers at mining and mineral processing facilities have been exposed to spills and mismanagement of toxic and hazardous waste. There is an estimated 175 mineral processing sites nationwide, which includes approximately 41 facilities in Region 4. To date, inspections have been completed at 28 facilities in Region 4, and many of the sites were found to be in serious non-compliance with hazardous waste and other environmental laws and facility operations were causing significant environmental impact. Region 4 has issued 28 administrative enforcement actions and concluded three



civil judicial cases to compel compliance with hazardous waste management regulations, assess contamination of soil and ground water, and/or halt imminent and substantial endangerments from facility operations. In FY2013, EPA will continue its enforcement initiative by completing inspections at any remaining high risk mineral processing facilities, and addressing noncompliance with the law to reduce risk to surrounding communities and the environment.

#### **Assuring Energy Extraction Sector Compliance with Environmental Laws**

As the nation expands its search for new forms and sources of energy, some energy extraction activities, such as new techniques for oil and gas extraction and coal mining, may pose a risk of pollution of air, surface waters and ground waters if not properly controlled. To address these emerging problems, EPA has developed an initiative to assure that energy extraction activities are complying with federal requirements to prevent pollution. This initiative will be undertaken in parts of the country where energy extraction activities are concentrated, and the focus and nature of our enforcement activities will vary with the type of activity and pollution problem presented. In Region 4, our active inspection universe includes 26,260 wells, 188 compressor stations, and 16 gas plants. Over the last two years, our CAA program has focused efforts on inspecting gas plants and compressor stations in Alabama, Mississippi, and Kentucky. Our UIC program has focused attention on injection wells, primarily in Kentucky. Since FY 2011, we have conducted over 80 inspections under this Initiative. In FY 2013 we will continue to target areas of potential noncompliance issues across this sector.

#### Regional Priorities

##### State Oversight

- EPA's oversight of state programs remains a key management challenge. While the Government Accountability Office and EPA's Office of Inspector General have reported that EPA has made some progress in this area, declining budgets and fiscal challenges that pressure federal and state agencies and tribal governments to do more with fewer resources means that strong partnerships and accountability are more important than ever. EPA does not abrogate its oversight responsibility when it has delegated implementation and enforcement responsibility. The federal intent is to ensure national minimum level environmental protection standards. Region 4 will fulfill its oversight responsibilities by conducting oversight inspections, monitoring Watch List facilities and having regular dialogue with our State partners. Also, beginning in FY 2013 and continuing through FY 2016, Region 4 will conduct state reviews in each of the Region 4 states following the Round 3 State Review Framework (SRF) process. The Round 3 SRFs will include reviews of state Clean Air Act (CAA), Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA) enforcement programs and an integrated oversight review of the CWA-NPDES permitting programs (known as the PQR). It is the Region's intention to conduct two reviews each year on a schedule that will be shared in advance with the states.

##### Multiregional Air Initiative

- Chesapeake Bay – In May 2009, the President signed an Executive Order to protect and restore the health, heritage, natural resources and social and economic value of the Chesapeake Bay. EPA Region 4 is participating with EPA Regions 2, 3, and 5 in the "Chesapeake Bay Compliance and Enforcement Strategy." The strategy is a multiyear and multistate plan designed to augment and enhance existing work to identify and address violations in the Chesapeake Bay air shed. The goal is to reduce nitrogen air deposition by addressing noncompliance with existing air pollution control requirements. To date, Region 4 has

conducted 28 targeted investigations at sources in North Carolina, Tennessee and Kentucky. Two additional investigations will be conducted in FY 2013 which will conclude our assessment of 100% of the sources in the Chesapeake Bay air shed.

#### Clean Water Act

- To further the EPA's Administrator's priority for protecting America's waters, EPA Region 4 will focus on addressing water quality impairment from noncompliance in the coal mining sector. Such noncompliance can result in the degradation of water quality of streams and rivers, especially in the Appalachian region. In FY 2013, EPA Region 4 will continue to focus CWA compliance and enforcement activities in support of the Regional Coal Mining Initiative. Region 4 is verifying compliance through reviews of 308 Information Request letters and on-site inspections, and pursuing CWA enforcement through administrative and judicial actions where warranted.
- Shellfish Harvesting Areas – To protect public health and ensure a safe harvest, the coastal waters of the United States are surveyed and classified according to guidelines of the National Shellfish Sanitation Program. Classification status is based on sanitary surveys of water quality and shoreline surveys of pollution sources. The primary basis for harvest restrictions is the concentration of fecal coliform bacteria associated with human sewage and with organic wastes from livestock and wildlife. Other classification factors include proximity to known point and nonpoint sources of pollution, weather (e.g. heavy rainfall that temporarily introduces pollutants), tides, circulation and prevailing winds. As Region 4 implements the MS4 and raw sewage National Enforcement Initiatives, we will continue to explore integrating the use of these efforts in targeting those systems that may have contributed to conditions that have resulted in shellfish harvest-limited areas.

#### Resource Conservation and Recovery Act (RCRA)

- In FY 2013, EPA Region 4 will conduct compliance monitoring inspections at three sectors that have been identified by a national RCRA targeting workgroup as areas for potential noncompliance. These sectors include: 1) Centralized Wastewater Treatment Systems; 2) Zinc Hazardous Secondary Materials; and 3) Mercury Recycling (with a focus on lamps). These inspections are being coordinated across all EPA regions, and will be the initial screening process to refine potential priorities as part of future RCRA strategic planning.

#### OSHA Partnership

- EPA Region 4 and OSHA have been working together to better identify noncompliance at facilities across the southeast. The two federal agencies often share similar goals in the area of protecting workers at facilities and by coordinating efforts Region 4 has been able to identify several facilities for enforcement as significant noncompliers. In FY2013, this effort will be expanded to examine additional potential targets from the OSHA national and regional initiatives.



## Children's Health

- To support the FY 2013 Children's Health Measure, Region 4 will focus efforts to reduce risks to children through compliance monitoring and enforcement of lead-based paint (LBP) rules. Region 4 will directly implement the TSCA Lead Renovation, Remodeling and Painting rule in Florida, South Carolina, Kentucky and Tennessee while continuing to work with these states to build their capacity to pursue delegation for this program. For those states which are authorized or become authorized for Lead RR&P, the Region will conduct oversight activities. The Region will also continue to conduct compliance monitoring and take appropriate enforcement action where warranted.

## FIFRA

- For FY 2013, Region 4 worked collaboratively with state lead agencies to select Retail Marketing as a joint focus area. Whereas enforcement has traditionally been focused on the producer or registrant of a violative product, the Retail Marketing approach includes retailers of noncompliant products, who must also comply with FIFRA. Region 4 will conduct inspections and work with the states to encourage producer establishment and marketplace inspections in support of this focus area.

## Compliance Incentives

While EPA is currently investigating options to reduce or limit Agency resources spent on the Audit Policy without undermining the incentives for regulated entities to do internal compliance reviews to find and correct violations, Region 4 will continue to process disclosures under audit agreements from the three sectors that have been the subject of earlier compliance incentive initiatives.

- Colleges & Universities – Region 4 has received voluntary audits and disclosures from 206 Colleges and has made final agency decisions for 54.
- Hospitals – All 13 participating hospital systems, covering 46 hospitals in total, have audited their operations for compliance with federal environmental statutes and submitted their disclosures. The Region will continue to review submissions. .
- Prisons – To date, 14 of the 22 participating federal prisons have submitted their disclosures to the Agency for review under the Audit Policy.

## Compliance Assistance

- In FY 2012, the Region piloted a program in Georgia to provide direct compliance assistance to selected small domestic wastewater treatment systems (less than 1 mgd) run by local governments. This compliance assistance effort involved conducting a diagnostic inspection of the facility to determine performance problems, providing an asset management tool such as the EPA Check-up Program for Small Systems (CUPSS) to assist the facility with the development of an asset management program, and provide other tools that will allow the plant manager to track and assess its energy and water consumption across the facility. Based on the experience and understanding gained through this pilot, in FY 2013, Region 4 will be developing a package of information and will work with our State Partners to assist other small wastewater treatment plants in the Region with tools that can help them improve the performance of the plant, implement an asset and financial management program and improve overall facility management.





FLORIDA

SECTION D

MEMORANDUM OF AGREEMENT

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**MEMORANDUM OF AGREEMENT**  
**BETWEEN THE STATE OF FLORIDA AND**  
**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 4**

**Section I. General**

This Memorandum of Agreement (hereinafter, AGREEMENT) establishes policies, responsibilities and procedures pursuant to 40 C.F.R. Part 123 and defines the manner in which the National Pollutant Discharge Elimination System (NPDES) will be administered by the State of Florida Department of Environmental Protection (hereinafter, the DEPARTMENT) and reviewed by Region 4 of the United States Environmental Protection Agency (hereinafter, EPA). All additional agreements between the DEPARTMENT and EPA are subject to review by the REGIONAL ADMINISTRATOR of the U.S. Environmental Protection Agency, Region 4 (hereinafter, the REGIONAL ADMINISTRATOR), and the SECRETARY of the Florida Department of Environmental Protection (hereinafter, the SECRETARY). If the ADMINISTRATOR of EPA determines that any provision of any agreement does not conform to the requirements of Section 402(b) of the Federal Clean Water Act (hereinafter, the CWA), 33 U.S.C. 1251 et. seq., or to the requirements of 40 C.F.R. Parts 122-125, or other applicable Federal regulations, the ADMINISTRATOR shall notify the SECRETARY and the REGIONAL ADMINISTRATOR of any proposed revisions or modifications which must be in such agreements.

The SECRETARY and the REGIONAL ADMINISTRATOR hereby agree that pursuant to Section 403.0885, Florida Statutes (F.S.), this AGREEMENT does not address DEPARTMENT permits

or portions of DEPARTMENT permits which do not apply to discharges of pollutants to surface waters of the United States. Further, the SECRETARY and the REGIONAL ADMINISTRATOR hereby agree to maintain a high level of cooperation and coordination between DEPARTMENT and EPA staffs in a partnership to assure successful and effective administration of a NPDES program. In this partnership, EPA will provide to the DEPARTMENT, on a continuing basis, technical and other assistance on permit matters as requested.

The DEPARTMENT will administer a NPDES program in accordance with Section 402 of the CWA, this AGREEMENT, applicable DEPARTMENT legal authority, and the annual State Program Plan. The DEPARTMENT has the primary responsibility to establish the State NPDES program priorities which are consistent with national NPDES goals and objectives.

The strategies and priorities for issuance, compliance monitoring and enforcement of permits, as established in this MOA, may be set forth in more detail in the annual State 106 program plan and the State/EPA Enforcement Agreement signed by the DEPARTMENT and the REGIONAL ADMINISTRATOR of EPA, Region 4. This MOA, the State 106 program plan, and the State/EPA agreement(s) regarding the NPDES program shall be consistent. However, the basic requirements of this MOA shall override any other State/EPA agreement(s) as required by 40 C.F.R. § 123.34(c).

Either the DEPARTMENT OR the REGIONAL ADMINISTRATOR may initiate action to modify this AGREEMENT at any time. However, before this AGREEMENT may be modified, any proposed revisions must be put in writing, signed by the SECRETARY and the REGIONAL ADMINISTRATOR, and approved by the ADMINISTRATOR.

## **Section II. Scope of Authorization**

The SECRETARY and the REGIONAL ADMINISTRATOR agree that Florida has requested that the U.S. Environmental Protection Agency (EPA) grant it authority to administer NPDES permitting, compliance, and enforcement; NPDES general permits, except for storm water discharges; and the

NPDES pretreatment program in Florida. Florida has requested authorization in phases as provided for by Section 402(f) and (n) of the Clean Water Act. This first phase of authorization does not include permitting of federal facilities, or the portions of the storm water permitting program. In the fourth year after receiving initial authorization, no later than May 1, 1999, the SECRETARY agrees that Florida will apply for authorization to administer all of the storm water and Federal facility permitting, compliance, and enforcement programs. The DEPARTMENT will begin administering and enforcing all of the stormwater and Federal facility permitting, compliance and enforcement programs no later than May 1, 2000.

The DEPARTMENT does not exercise jurisdiction over Federally recognized Indian lands in Florida and will not be seeking authorization for a NPDES program in those areas. Further, the DEPARTMENT will not be seeking authorization for a sewage sludge management program as part of a NPDES program.

### **Section III. Policies**

The DEPARTMENT program equivalent to NPDES, under section 402 of the CWA, will be the Florida Wastewater Regulation Program (FWRP) adopted under Section 403.0885 of the Florida Statutes and implemented by Chapters 62-620 and 62-625 of the Florida Administrative Code.

#### **A. DEPARTMENT Responsibilities**

In accordance with the priorities and procedures established in this AGREEMENT and the annual State Program Plan, the DEPARTMENT will:

1. Create and maintain to the maximum extent possible the legal authority and the resources required to carry out all aspects of the FWRP program.
2. Process in a timely manner and propose to issue, reissue, modify, terminate, or deny FWRP permits to the following categories of applicants:
  - a. Industrial, commercial, mining and silvicultural dischargers as outlined in Section



IV of this AGREEMENT, except as excluded in Section II;

- b. Animal feeding operations and aquatic animal production facilities (as defined in 40 C.F.R. §§ 122.23-122.24), and Section IV of this AGREEMENT; or
  - c. Domestic wastewater treatment facilities that include publicly owned treatment works and privately owned treatment works as outlined in Section IV of this AGREEMENT.
- 3. Comprehensively evaluate and assess compliance with compliance schedules, effluent limitations and other conditions in these permits as outlined in Section V of this AGREEMENT.
  - 4. Maintain a vigorous program of taking timely and appropriate enforcement actions in accordance with Florida Statutes and the CWA.
  - 5. Maintain an effective program to carry out the pretreatment responsibilities outlined in Section VII of this AGREEMENT.
  - 6. Maintain an adequate public file at the appropriate district or central office which must be easily accessible to EPA for program evaluation for each permittee. Such files must include at a minimum, copies of:
    - Permit Application
    - Public Notice and either Fact Sheet or Statement of Basis
    - Draft Permit
    - Public Comments
    - Final Permit or Final Order of Denial
    - Discharge Monitoring Reports
    - All inspection reports
    - All enforcement actions

- Other pertinent information and correspondence.

7. Submit to the REGIONAL ADMINISTRATOR the information described in Section VIII of this AGREEMENT, the State Program Plan and applicable portions of 40 C.F.R. Part 123. The DEPARTMENT will cooperate with EPA in the administration of the FWRP in accordance with EPA program policies and guidance. Additionally, upon request by the REGIONAL ADMINISTRATOR, the DEPARTMENT shall submit specific information and allow access to files necessary for evaluating DEPARTMENT administration of the FWRP.

**B. EPA Responsibilities**

1. EPA will commit, to the maximum extent possible, funding to the DEPARTMENT to support this effort. It is recognized that a portion of FWRP related activities are §106 funded and should a reduction in funds occur, the FWRP effort may be reduced by a negotiated amount.
2. Where no effective effluent guidelines or standards exist for a discharge, EPA is responsible for transmitting to the DEPARTMENT technical information to assist in writing permit terms and conditions, for example, contractor reports, draft development documents, and available permits and effluent data from similar facilities. Such information will be provided within thirty (30) days of request by the DEPARTMENT.
3. As outlined in Section IX of this AGREEMENT, EPA will oversee the DEPARTMENT administration of FWRP on a continuing basis for consistency with the CWA, State law or rules, this AGREEMENT, the State Program Plan, and all applicable Federal regulations. In addition, EPA may consider as a part of its assessment, comments from permittees, the public, and Federal and local agencies concerning the DEPARTMENT administration of FWRP. Any such comments considered by EPA will be brought to the

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
MEMORANDUM OF AGREEMENT  
BETWEEN THE STATE OF FLORIDA AND  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

**Section I. Introduction**

This Memorandum of Agreement (hereinafter, MOA) establishes policies, responsibilities and procedures pursuant to 40 Code of Federal Regulations (C.F.R.) Part 123 and sets forth procedures for how the National Pollutant Discharge Elimination System (NPDES) program will be administered by the State of Florida, Department of Environmental Protection (hereinafter, FDEP or State) and reviewed by Region 4 of the United States Environmental Protection Agency (hereinafter, EPA or Region 4). All additional agreements between the FDEP and EPA are subject to review by the Regional Administrator of the U.S. Environmental Protection Agency, Region 4 (hereinafter, the Regional Administrator), and the Secretary of the FDEP (hereinafter, the Secretary). If the Regional Administrator determines that any provision of any agreement does not conform to the requirements of Section 402(b) of the Federal Clean Water Act (hereinafter, the CWA), 33 U.S.C. 1251 *et. seq.*, or to the requirements of 40 C.F.R. Parts 122-125, or other applicable federal regulations, the Regional Administrator shall notify the Secretary of any proposed revisions or modifications which must be in such agreements.

The Secretary and the Regional Administrator hereby agree to maintain a high level of cooperation and coordination between the FDEP and EPA staffs in a partnership to ensure successful and effective administration of the NPDES program. In this partnership, EPA will provide to the FDEP technical and other assistance on permit, compliance and enforcement matters when requested, as appropriate and as funding allows.

The FDEP will administer an NPDES program in accordance with the CWA Section 402, this MOA, applicable Florida legal authority, and the annual State Section 106 Program Plan (State 106 Workplan). The FDEP has the primary responsibility to establish the State NPDES program priorities that are consistent with national NPDES goals and objectives. This agreement does not establish an agent relationship between EPA and the State, and no waiver of sovereign immunity is implied or assumed by this agreement.

The strategies and priorities for issuance, compliance monitoring and enforcement of permits, as established in this MOA, may be set forth in more detail in the State 106 Workplan, a Performance Partnership Agreement (PPA), or a State/EPA Enforcement Agreement signed by the Secretary and the Regional Administrator. This MOA, the State 106 Workplan, the PPA, and any other State/EPA agreement(s) regarding the NPDES program shall not be in conflict.

Either the Secretary or the Regional Administrator may initiate an action to modify this MOA at any time. However, before this MOA may be modified, any revisions must be in writing and signed by the Secretary and the Regional Administrator. It is recognized that organizational changes may occur at federal or state levels as programs evolve. The parties



agree that should the contact information contained herein require revision as a result of organizational changes, this document shall remain in full force and effect without the need for modification. Rather, it is agreed that should either party make organizational change(s) that affects the contact information contained herein, revisions to the contact information shall be accomplished through written notification to the other party within thirty (30) days after such organizational change occurs.

## **Section II. Scope of Authorization**

The Secretary and the Regional Administrator agree that the State of Florida has been granted authorization to administer the NPDES permitting, compliance, and enforcement programs. The FDEP does not exercise jurisdiction over federally-recognized Indian Tribal lands and will not be seeking such authority. Further, the FDEP is not currently authorized for a federal biosolids management program as part of the NPDES program.

### **Review of New or Revised State Rules, Regulations or Statutes**

Either EPA or the State may initiate a revision to the NPDES program. The State and EPA shall keep each other fully informed of any proposed modifications to its statutory or regulatory authority, forms, procedures, or priorities.

1. Revision of the State's program shall be accomplished as follows:
  - a. The State shall submit to EPA's Regional Administrator a modified program description, an Attorney General's statement, Memorandum of Agreement, or any such other documents, as EPA determines to be necessary under the circumstances after consultation with the State. EPA will determine if the proposed revision is substantial or non-substantial.
  - b. If EPA determines that the proposed revision is substantial, EPA shall issue public notice of the proposed revision and provide an opportunity to comment for a period of at least thirty (30) days. The public notice will also provide an opportunity to the public to request a public hearing.
  - c. The Regional Administrator will approve or disapprove program revisions based on the requirements of 40 C.F.R. Part 123 and of the CWA. Notice of approval of a substantial change shall be published in the Federal Register. A program revision shall become effective upon the approval of the Regional Administrator.
  - d. If EPA determines the revision to be non-substantial, notice of approval may be given by letter from the Regional Administrator to the Secretary or his/her designee.
  - e. In order to conform with new or revised promulgations of federal regulations, the State must revise its program within one year of promulgation of the new or revised federal regulations, unless the State



must amend or enact a statute to make the required revision or if a State legislative process must be completed, in which case such revision shall take place within two (2) years. [See 40 C.F.R. Part 123.62(e)]

- f. The State will provide proposed revisions to EPA in a timely manner in consideration of the date the State needs to have EPA's review completed. After conducting a preliminary review of the State's proposed revision, EPA will provide to the State an estimated schedule for completing its review. The estimated review schedule will depend on the complexity of the proposed revision. EPA will, thereafter, provide the State with quarterly updates, as appropriate, regarding the status of its review.
2. The State must notify EPA whenever it proposes to transfer all or any part of any program from the approved State agency to any other State agency, and must identify any new division of responsibilities among the agencies involved. The new agency is not authorized to administer the program until given approval by the Regional Administrator under 40 C.F.R. Parts 123.62(b) and (c).
3. Whenever the Regional Administrator has reason to believe that circumstances have changed with respect to the State's program, he may request, and the State shall provide, a supplemental Attorney General's statement, program description, or other documents or information as are necessary.

### **Section III. General Provisions**

The State program authorized to implement the NPDES program pursuant to the requirements of the CWA is Florida NPDES Program adopted under Section 403.0885 of the Florida Statutes and implemented by Chapters 62-4, 62-40, 62-110, 62-160, 62-302, 62-600, 62-601, 62-610, 62-611, 62-620, 62-621, 62-624, 62-625, 62-650, 62-660, 62-670 and 62-671 of the Florida Administrative Code, and all other applicable rules of the FDEP.

#### **A. FDEP Responsibilities**

In accordance with the priorities and procedures established in this MOA and the State 106 Workplan, the FDEP will:

1. Create and maintain the legal authority and, to the maximum extent possible, the resources required to carry out all aspects of the State NPDES program, including revisions to State program legal authorities as provided for at 40 C.F.R. Part 123.
2. Ensure, to the extent possible, that EPA is kept fully informed and up-to-date regarding:
  - a. Draft and final policy and program development documents related to the State NPDES program;



## SETTLEMENT GUIDELINES FOR CIVIL AND ADMINISTRATIVE PENALTIES

### 1. Purpose

These guidelines are provided solely for the use of Department staff in determining what position the agency should take in settlement negotiations concerning civil and administrative penalties. They are intended to provide a rational, fair and consistent method for determining whether the Department should seek a civil penalty in an enforcement action and the appropriate amount of civil and administrative penalties the Department should seek from responsible parties in settling enforcement actions when imposition of a civil penalty is appropriate. These guidelines are not a rule and may not be cited as legal authority for any agency action. These guidelines are not applicable for assessing damages to natural resources. In an appropriate case, monetary relief for actual damages caused to the State's natural resources can be sought in addition to civil or administrative penalties. These guidelines will be periodically reviewed to determine their effectiveness, and whether refinements are needed.

### 2. Authority

With the enactment of the Environmental Litigation Reform Act (ELRA), the Department has administrative penalty authority for most regulatory programs. The Department now has the authority to impose up to a total of \$10,000 in civil penalties in one administrative action for most regulatory violations as provided in ELRA. This authority is codified at Section 403.121, Florida Statutes.

Independent of ELRA, the Department has statutory authority to assess administrative penalties in Beaches and Coastal Systems cases for up to \$10,000 per day, Section 161.054(1), Florida Statutes, and in State Lands cases for up to \$10,000 per day, Section 253.04(2), Florida Statutes. ELRA does not modify or add to that existing authority. Penalty guidelines for these programs have been adopted by rule.

The Department also has the authority in a judicial proceeding to ask a court to assess penalties of up to \$10,000 per day per violation, Sections 403.141, 376.302, and 373.129(5) Florida Statutes; up to \$25,000 per day per violation for hazardous substance violations, Section 403.726, Florida Statutes; up to \$50,000 per day per violation for hazardous waste violations, Section 403.727,



Florida Statutes; up to \$5,000 per day per violation for violations of the Safe Drinking Water Act, Section 403.860, Florida Statutes; and up to \$5,000 per day per violation for violations involving phosphate mines in Section 378.211(2),(4), Florida Statutes.

3. Introduction

This Department is directed by the Legislature to protect and enhance Florida's water, air, and lands, to protect human health, safety and welfare from adverse environmental conditions, and to manage the state's natural resources. To accomplish these goals, the Legislature has passed laws restricting or prohibiting activities that may cause pollution, harm the resources of the state, or threaten human health or safety. It has also given the Department the authority to adopt environmental standards, to require that persons engaging in certain activities obtain permits or other authorizations before those activities are undertaken, and to take appropriate actions to ensure that all persons comply with the statutory, rule, and permit requirements.

The Department has multiple ways to encourage compliance with the law, and to address non-compliance. Effective education of the public and regulated persons may prevent non-compliance from occurring in many instances. Such education may be in the form of training or outreach efforts. If a violation occurs, the Department may often obtain a return to compliance by informal means. In such cases, education may still be the appropriate remedy, and the Department may establish an environmental education course for such persons. Assisting with a prompt return to compliance without formal enforcement is the preferred means to correct a violation committed by a person who did not know that the person's actions were contrary to law, or whose actions were inadvertent, if the violation caused no more than "minor harm" as identified in the Program's Penalty Guidelines. An inadvertent violation is one that occurs despite the good faith efforts of the responsible party to comply with the applicable requirements.

Once a decision has been made that formal enforcement is appropriate, Department staff must then decide whether a civil penalty is appropriate. Even when formal enforcement is necessary, these guidelines do not require imposition of a civil penalty in every enforcement action. The Department staff involved in pursuing enforcement, with appropriate supervisory review, should use their sound judgment, along with any program specific guidance that is consistent with this policy, to decide when a penalty should be sought. In exercising this judgment, the user should remember that the imposition of penalties is an enforcement tool that is intended to insure immediate and continued compliance by the subject of the action and by others who may face a similar situation in the future. Thus, penalties should be considered in those

FLORIDA

SECTION D

MEMORANDUM OF AGREEMENT

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**  
**MEMORANDUM OF AGREEMENT**  
**BETWEEN THE STATE OF FLORIDA AND**  
**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 4**

**Section I. General**

This Memorandum of Agreement (hereinafter, AGREEMENT) establishes policies, responsibilities and procedures pursuant to 40 C.F.R. Part 123 and defines the manner in which the National Pollutant Discharge Elimination System (NPDES) will be administered by the State of Florida Department of Environmental Protection (hereinafter, the DEPARTMENT) and reviewed by Region 4 of the United States Environmental Protection Agency (hereinafter, EPA). All additional agreements between the DEPARTMENT and EPA are subject to review by the REGIONAL ADMINISTRATOR of the U.S. Environmental Protection Agency, Region 4 (hereinafter, the REGIONAL ADMINISTRATOR), and the SECRETARY of the Florida Department of Environmental Protection (hereinafter, the SECRETARY). If the ADMINISTRATOR of EPA determines that any provision of any agreement does not conform to the requirements of Section 402(b) of the Federal Clean Water Act (hereinafter, the CWA), 33 U.S.C. 1251 et. seq., or to the requirements of 40 C.F.R. Parts 122-125, or other applicable Federal regulations, the ADMINISTRATOR shall notify the SECRETARY and the REGIONAL ADMINISTRATOR of any proposed revisions or modifications which must be in such agreements.

The SECRETARY and the REGIONAL ADMINISTRATOR hereby agree that pursuant to Section 403.0885, Florida Statutes (F.S.), this AGREEMENT does not address DEPARTMENT permits



or portions of DEPARTMENT permits which do not apply to discharges of pollutants to surface waters of the United States. Further, the SECRETARY and the REGIONAL ADMINISTRATOR hereby agree to maintain a high level of cooperation and coordination between DEPARTMENT and EPA staffs in a partnership to assure successful and effective administration of a NPDES program. In this partnership, EPA will provide to the DEPARTMENT, on a continuing basis, technical and other assistance on permit matters as requested.

The DEPARTMENT will administer a NPDES program in accordance with Section 402 of the CWA, this AGREEMENT, applicable DEPARTMENT legal authority, and the annual State Program Plan. The DEPARTMENT has the primary responsibility to establish the State NPDES program priorities which are consistent with national NPDES goals and objectives.

The strategies and priorities for issuance, compliance monitoring and enforcement of permits, as established in this MOA, may be set forth in more detail in the annual State 106 program plan and the State/EPA Enforcement Agreement signed by the DEPARTMENT and the REGIONAL ADMINISTRATOR of EPA, Region 4. This MOA, the State 106 program plan, and the State/EPA agreement(s) regarding the NPDES program shall be consistent. However, the basic requirements of this MOA shall override any other State/EPA agreement(s) as required by 40 C.F.R. § 123.34(c).

Either the DEPARTMENT OR the REGIONAL ADMINISTRATOR may initiate action to modify this AGREEMENT at any time. However, before this AGREEMENT may be modified, any proposed revisions must be put in writing, signed by the SECRETARY and the REGIONAL ADMINISTRATOR, and approved by the ADMINISTRATOR.

#### **Section II. Scope of Authorization**

The SECRETARY and the REGIONAL ADMINISTRATOR agree that Florida has requested that the U.S. Environmental Protection Agency (EPA) grant it authority to administer NPDES permitting, compliance, and enforcement; NPDES general permits, except for storm water discharges; and the

NPDES pretreatment program in Florida. Florida has requested authorization in phases as provided for by Section 402(f) and (n) of the Clean Water Act. This first phase of authorization does not include permitting of federal facilities, or the portions of the storm water permitting program. In the fourth year after receiving initial authorization, no later than May 1, 1999, the SECRETARY agrees that Florida will apply for authorization to administer all of the storm water and Federal facility permitting, compliance, and enforcement programs. The DEPARTMENT will begin administering and enforcing all of the stormwater and Federal facility permitting, compliance and enforcement programs no later than May 1, 2000.

The DEPARTMENT does not exercise jurisdiction over Federally recognized Indian lands in Florida and will not be seeking authorization for a NPDES program in those areas. Further, the DEPARTMENT will not be seeking authorization for a sewage sludge management program as part of a NPDES program.

### **Section III. Policies**

The DEPARTMENT program equivalent to NPDES, under section 402 of the CWA, will be the Florida Wastewater Regulation Program (FWRP) adopted under Section 403.0885 of the Florida Statutes and implemented by Chapters 62-620 and 62-625 of the Florida Administrative Code.

#### **A. DEPARTMENT Responsibilities**

In accordance with the priorities and procedures established in this AGREEMENT and the annual State Program Plan, the DEPARTMENT will:

1. Create and maintain to the maximum extent possible the legal authority and the resources required to carry out all aspects of the FWRP program.
2. Process in a timely manner and propose to issue, reissue, modify, terminate, or deny FWRP permits to the following categories of applicants:
  - a. Industrial, commercial, mining and silvicultural dischargers as outlined in Section

IV of this AGREEMENT, except as excluded in Section II;

- b. Animal feeding operations and aquatic animal production facilities (as defined in 40 C.F.R. §§ 122.23-122.24), and Section IV of this AGREEMENT; or
  - c. Domestic wastewater treatment facilities that include publicly owned treatment works and privately owned treatment works as outlined in Section IV of this AGREEMENT.
- 3. Comprehensively evaluate and assess compliance with compliance schedules, effluent limitations and other conditions in these permits as outlined in Section V of this AGREEMENT.
  - 4. Maintain a vigorous program of taking timely and appropriate enforcement actions in accordance with Florida Statutes and the CWA.
  - 5. Maintain an effective program to carry out the pretreatment responsibilities outlined in Section VII of this AGREEMENT.
  - 6. Maintain an adequate public file at the appropriate district or central office which must be easily accessible to EPA for program evaluation for each permittee. Such files must include at a minimum, copies of:
    - Permit Application
    - Public Notice and either Fact Sheet or Statement of Basis
    - Draft Permit
    - Public Comments
    - Final Permit or Final Order of Denial
    - Discharge Monitoring Reports
    - All inspection reports
    - All enforcement actions



- Other pertinent information and correspondence.

7. Submit to the REGIONAL ADMINISTRATOR the information described in Section VIII of this AGREEMENT, the State Program Plan and applicable portions of 40 C.F.R. Part 123. The DEPARTMENT will cooperate with EPA in the administration of the FWRP in accordance with EPA program policies and guidance. Additionally, upon request by the REGIONAL ADMINISTRATOR, the DEPARTMENT shall submit specific information and allow access to files necessary for evaluating DEPARTMENT administration of the FWRP.

**B. EPA Responsibilities**

1. EPA will commit, to the maximum extent possible, funding to the DEPARTMENT to support this effort. It is recognized that a portion of FWRP related activities are §106 funded and should a reduction in funds occur, the FWRP effort may be reduced by a negotiated amount.
2. Where no effective effluent guidelines or standards exist for a discharge, EPA is responsible for transmitting to the DEPARTMENT technical information to assist in writing permit terms and conditions, for example, contractor reports, draft development documents, and available permits and effluent data from similar facilities. Such information will be provided within thirty (30) days of request by the DEPARTMENT.
3. As outlined in Section IX of this AGREEMENT, EPA will oversee the DEPARTMENT administration of FWRP on a continuing basis for consistency with the CWA, State law or rules, this AGREEMENT, the State Program Plan, and all applicable Federal regulations. In addition, EPA may consider as a part of its assessment, comments from permittees, the public, and Federal and local agencies concerning the DEPARTMENT administration of FWRP. Any such comments considered by EPA will be brought to the

attention of the DEPARTMENT by written correspondence, if the commenting party has not previously communicated with the DEPARTMENT. Any information obtained or used by the DEPARTMENT under the FWRP shall be available to EPA upon request without restriction due to claims of confidentiality. If the information has been submitted to the DEPARTMENT under a claim of confidentiality, the DEPARTMENT shall inform EPA of that claim. Information claimed confidential which is used to develop permit conditions will be treated in accordance with 40 C.F.R. Part 2, Subpart B; and 40 C.F.R. § 122.7.

4. EPA shall provide, on an annual basis, formal training courses in compliance inspections and permit writing, contingent on available EPA resources.

**C. Jurisdiction over Permits**

Upon the REGIONAL ADMINISTRATOR'S approval of the FWRP program, the DEPARTMENT will immediately assume jurisdiction over federal NPDES permits as set forth in Rule 62-620.105, F.A.C., and as follows:

1. The DEPARTMENT will assume authority for permitting, pretreatment program, compliance and enforcement activities of the NPDES program; except for certain storm water activities described in III.D. below, jurisdiction over Federal facilities, Federally recognized Indian Reservations, and sludge as regulated under § 405 of the CWA; as indicated in III.D.4. below.
2. For permits under active Federal enforcement at the time of program authorization, EPA will complete the enforcement action; however, the DEPARTMENT will assume permitting, pretreatment program, compliance, and future enforcement authority. As each EPA enforcement action is resolved, EPA will notify the DEPARTMENT and transfer any additional permit file materials at that time. EPA will make every effort to

resolve these matters in a timely manner. A specific list of these permits appears as Attachment A to this AGREEMENT.

3. For permits for which an evidentiary hearing has been requested at the time of program authorization, EPA will retain full jurisdiction until that matter has been resolved. Upon resolution of the administrative challenge or expiration of the permit, EPA will notify the DEPARTMENT and the permittee that full jurisdiction of the permit has been transferred to the DEPARTMENT. EPA will make every effort to resolve these issues in a timely manner and if requested by either EPA or the DEPARTMENT, meetings will be scheduled to discuss issues pertaining to retained NPDES permits. The DEPARTMENT shall retain its rights under Section 401 of the CWA to consider certification to subsequent EPA permitting actions on these retained NPDES permits. A specific list of these permits appears in Attachment B to this AGREEMENT.
  4. In addition, for certain other facilities or discharges, as agreed to between the DEPARTMENT and EPA, EPA will retain full jurisdiction for these NPDES permits following authorization of the FWRP. Upon completion of the permit issuance, modification, or other such action, or assumption of that program component by the DEPARTMENT, EPA will notify the DEPARTMENT and the permittee that full jurisdiction of the permit has been transferred to the DEPARTMENT. For certain other facilities or discharges, such as those discharging into federal waters, EPA will retain full jurisdiction for these NPDES permits. A specific list of these permits appears in Attachment C to this AGREEMENT.
  5. If a DEPARTMENT permit is vetoed by EPA, EPA will assume permitting, compliance, and enforcement authority for that facility.
- D. Storm Water Permits



1. Municipal Separate Storm Sewer Systems (MS4s). For a period of not less than four years from the date of initial FWRP approval, the EPA will continue to administer the MS4 NPDES program retaining permitting and enforcement responsibility for municipal storm water dischargers in the following counties, as well as any MS4s that may be added by EPA pursuant to 40 C.F.R. §§ 122.6(b)(4)(iii) or 122.26(b)(5)(iii).

Broward	Lee	Pasco
Dade	Leon	Pinellas
Duval	Manatee	Polk
Escambia	Orange	Sarasota
Hillsborough	Palm Beach	Seminole

2. Storm Water General Permits. For a period of not less than four years from the date of initial FWRP approval, the EPA will continue to administer the NPDES program for storm water general permits retaining permitting and enforcement responsibility.
3. Individual Permits for Storm Water Only Discharges. For a period of not less than four years from the date of initial FWRP approval, the EPA will continue to administer the NPDES program for individual storm water only dischargers and will retain permitting and enforcement responsibility.
4. Individual Permits that Include Storm Water Provisions. On the date of the initial FWRP authorization, the DEPARTMENT will assume permitting, compliance, and enforcement authority for storm water discharges associated with facilities permitted by the DEPARTMENT to discharge non-storm water (e.g., domestic, process or non-process wastewater) to navigable waters, unless the discharge is covered by a storm water general permit administered by EPA.

